

Topsfield Planning Board

March 19, 2013

Chairman Morrison called the meeting to order at 7:50 PM at the Town Library. Board members present were Martha Morrison, Janice Ablon, Steven Hall, and Ian De Buy Wenniger. Roberta Knight, Community Development Coordinator was also present.

Visitors: Selectman Dick Gandt; Richard Adelman, Trudi Perry, David Moniz, Gary Magnant, Michael O'Hara

Minutes: Member Steven Hall made the motion to approve the minutes of March 5, 2013 as corrected; seconded by Member Ian De Buy Wenniger.

PUBLIC HEARING

Zoning Amendment Articles for the May 7, 2013 Annual Town Meeting And Revisions to the Stormwater And Erosion Control Rules & Regulations

At 8:00PM, Chairman Morrison opened the public hearing to consider the following proposed amendment to the Topsfield Zoning By-law for the May 7, 2013 Annual Town Meeting. Clerk Janice Ablon read the legal notice for the record.

1. **Article I Definitions:** amends definition section as follows:
 - a. Revision of definition for "Medical Clinic" that said facility is affiliated with a hospital and includes several physicians and staff
 - b. Addition of definition for "Medical Marijuana Treatment Center"
 - c. Revision of definition for "Pharmacy" to prohibit the retail sale of marijuana products unless located within the same building and on same premises as a Hospital and is part of a Medical Marijuana Treatment Center.
2. **Article III, Section 3.02:** amends the Table of Use Regulations as follows:
 - a. Addition of Sub-section 2.15 Medical Clinic
 - b. Addition of Sub-section 2.16 Medical Marijuana Treatment Center

And (2) discuss a modification to the appeal procedure for the Stormwater And Erosion Control Rules and Regulations relative to the Town Code, Chapter 51 Stormwater and Erosion Control Bylaw.

Chairman Morrison made a summary presentation of the proposed amendments. At the March 5, 2013 information meeting, the Board made the decision to follow the temporary moratorium approach of the three neighboring towns rather than deal with the matter within the Town's existing Bylaws. Following the advice of Town Counsel a second public hearing has been scheduled for the Temporary Moratorium on Medical Marijuana Treatment Centers zoning amendment. During the March 5th meeting, the members also

made other revisions to the proposed zoning amendments that included no revisions to the definitions for “medical clinic” and “pharmacy”, but still amend the Table of Uses to include medical clinics, and add the state definition for “medical marijuana treatment center” into the Definition section of the Bylaw.

The Board then reviewed the directive from Town Counsel and proceeded with the public hearing.

Member Ian De Buy Wenniger summarized the Board’s current position relative to revisions to the Zoning Bylaws as published in the legal notice as follows:

- Medical Clinic: No revisions at this time to the definition of “Medical Clinic”.
- Pharmacy: No revisions at this time to the definition of “Pharmacy”.
- Medical Marijuana Treatment Center: State definition for “Medical Marijuana Treatment Center” inserted into the Definition Section of the Bylaw rather than in proposed moratorium section to be consistent with past practice; no insertion into the Table of Uses.
- Table of Use: Addition of Sub-section 2.15 “Medical Clinic” as “S” for special permit requirement in the four commercial districts. This action corrects inconsistency in Bylaw.

Chairman Morrison entertained comments from the public. There were no public comments. Chairman Morrison then entertained a motion to close the public hearing. Member Steven Hall made the motion to close the public hearing; seconded by Member Ian De Buy Wenniger; so voted 4-0.

For specific details refer to the attached Proposed Public Hearing Documents, dated March 19, 2013.

Deliberations and Vote of the Board:

Article I Definitions:

Revision of definition for “Medical Clinic”: Member Ian De Buy Wenniger made the motion that the Board not recommends the revision to the definition for “Medical Clinic”; seconded by Member Steven Hall; so voted 4-0.

Addition of definition for “Medical Marijuana Treatment Center”: Member Ian De Buy Wenniger made the motion to adopt the definition for “Medical Marijuana Treatment Center”; seconded by Member Steven Hall; so voted 4-0.

Revision of definition for “Pharmacy”: Member Ian De Buy Wenniger made the motion that the Board not recommend the revision to the definition for “Pharmacy”; seconded by Member Steven Hall.

Table of Use Regulations:

Addition of Sub-section 2.15 “Medical Clinic”: Member Steven Hall made the motion that the Board recommend the addition of sub-section 2.15 “Medical Clinic” into the Table of Uses; seconded by Member Ian De Buy Wenniger; so voted 4-0.

Addition of Sub-section 2.16” Medical Marijuana Treatment Center”: Member Steven Hall made the motion that the Board not recommends the addition of Sub-section 2.16 “Medical Marijuana Treatment Center” into the Table of Uses; seconded by Member Ian De Buy Wenniger; so voted 4-0.

Revisions to the Stormwater And Erosion Control Rules & Regulations: The Board then discussed a modification to the appeal procedure for the Stormwater And Erosion Control Rules and Regulations relative to the Town Code, Chapter 51 Stormwater and Erosion Control Bylaw.

Chairman Morrison noted that based on Town Counsel’s legal opinion as discussed in previous meetings, the Board cannot assign jurisdiction to the court relative to an appeal procedure. Member Ian De Buy Wenniger made the motion that the Board delete the appeals process from the Stormwater & Erosion Control Rules & Regulations by deleting all language except for the first sentence that reads: “The decision of the Planning Board shall be final”; seconded by Member Steven Hall; so voted 4-0.

Temporary Moratorium on Medical Treatment Centers: Ms. Knight passed out language for the moratorium as drafted by Counsel without definition as part of the amendment. It was the consensus of the Board to remove the definition section since the Board had taken action earlier in the meeting to insert this definition into the Definition Section of the Bylaw. This amendment would be discussed and recommendation made by the Planning Board as part of the public hearing process scheduled for April 2, 2013. For specific details refer to attached warrant article document.

51 Fox Run Road: Developer Michael O’Hara reviewed the revised stormwater plans dated March 7, 2013 with the Board. Abutters David Moniz of 48 Fox Run Road and Gary Magnant of 47 Fox Run Road were present. Ms. Morrison noted that the plan would be subject to a peer review.

Ms. Knight informed the Board that Beals & Thomas was in place to perform the peer review and had submitted a proposal which was in the packet for the Board’s review. Mr. O’Hara has already reviewed the proposal and has agreed to the price proposal.

The members made comments relative to Mr. O'Hara's presentation of the revised plan. Member Ian De Buy Wenniger noted that due to the slopes, he did not want to see a flood of water into the abutter's lot due to a heavy rainstorm. Chairman Morrison noted that there were a number of storm drains on the plan to capture the water and then pipe to the infiltration bed which looks to be about 50 feet away from the leaching field of the neighbor's septic system. The peer reviewer needs this information.

The direct abutter Gary Magnant informed the Board that he installed just five years ago a very expensive septic system and he was very concerned that the system be not impaired due to soil and water issues on the adjoining lot that may exacerbate the existing problems once developed. He noted that he would provide the Board with a copy of his lot's septic system for the peer review engineer.

Ms. Knight then requested that the Board approve the Outside Consulting Agreement with Federal Construction & Excavating LLC which establishes the escrow account to fund the peer review engineering services. She further requested that the Board allow funding in two phases: the first for the review, report and meeting, the second for any review of recommended revisions. The funding for Phase 1 would be in the amount of \$4,645.

Member Ian De Buy Wenniger made the motion to approve the Outside Consulting Agreement with Federal Construction & Excavating LLC in regard to the escrow fund in the amount of \$4,645; and authorize the Planning Board Chair to sign; seconded by Clerk Janice Ablon; so voted 4-0.

The Meadows Pillar Lights: Ms. Knight informed the Board that the installed pillars have an electrical sleeve for lights; however, these lights were not part of the original approved plan. The developer would now like to install lights on the entrance pillars. After a discussion, it was the consensus of the Board that the developer would need to provide plans and specs for the lighting.

The meeting was adjourned at 9:30 PM.

Respectfully submitted,

Roberta M. Knight
Community Development Coordinator